IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13863 of 2005
With
SPECIAL CIVIL APPLICATION No. 13877 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

MAFATLALAPPARELMANUFACTURINGCOMPANYLTD. - Petitioner(s)

Versus

DALWADI CHETNABEN MANGUBHAI - Respondent(s)

==========

Appearance :
MR KM PATEL for Petitioner(s) : 1,
MS SANGITA PAHWA, for Respondent(s)
==========

CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 28/10/2005

ORAL JUDGMENT

These two petitions were separated from a group of petitions being Special Civil Application No.3085 of 2005 and allied matters. The above mentioned group of

petitions came to be disposed by a common judgment dated 21.10.2005 and the petitions were disposed by giving certain directions and remanding the proceedings before the Labour Court for considering the question of backwages.

2. Since identical questions arise in these two petitions also, without giving separate elaborate reasons, these petitions are also disposed with the same directions as follows:-

> "In the result, this group of petitions are being disposed of with following conclusions and directions :
>
> 1. The stipulation that the employer-Company will not be required to reinstate the workmen, if the Company is closed down in the mean time, is held to be unsustainable.
>
> 2. The conclusion of the Industrial Tribunal that by virtue of decision of the Hon'ble Supreme Court in the case of Jaipur Zila Sahakari Bhoomi Vikas Bank ltd. v/s. Ram Gopal Sharma and others(Supra), the dismissals of the concerned workmen are illegal and ineffective, is upheld.
>
> 3. The proceedings are however, remanded to the Industrial Tribunal for passing fresh orders in accordance with law and bearing in mind observations made here-in-above with respect to the back-wages for the intervening period after permitting both the sides to lead evidence in this regard. The Industrial Tribunal is requested to complete this exercise as expeditiously as possible and preferably within a period of six months from the date of receipt of a copy of this order.
>
> 4. The workmen are clamouring for justice since

many years. The Industrial Tribunal had already granted 100% back-wages. The proceedings are remanded only for the purpose of passing fresh orders with respect to back-wages. It would therefore, be appropriate to direct the employer-Company to pay a certain ad hoc lump sum amount to each of the workmen concerned in this group of petitions which payment will be subject to further orders regarding back-wages that the Industrial Tribunal may pass. It is therefore, provided that employer-Company shall pay an amount of Rs. 25,000/-(Rupees Twenty Five Thousand Only) to each workman concerned in this group of petitions and such amount shall be paid latest by 15th November, 2005. Such payments will be adjusted towards the entitlement of the back-wages of the workmen concerned as per the fresh orders that Industrial Tribunal may pass.

With these directions, the petitions are disposed of. Rule made absolute to the limited extent with no order as to costs."

3. With the directions as aforesaid, both these petitions are also disposed of. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi,J.)

(vjn)